IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 168 of 1999
in
SPECIAL CRIMINAL APPLICATION NO.934 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE R.R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RABARI MEHRAMAN NATHA
Versus
SUB-DIVISIONAL MAGISTRATE,

Appearance:

No one has appeared on behalf of the appellant.
Ms.Harsha Devani, ld.APP for respondents nos.1 and 2.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE R.R.TRIPATHI

Date of decision: 13/06/2000

ORAL JUDGEMENT (per M.R.Calla, J.)

This Letters Patent Appeal is directed against the judgment and order dated 10th November 1998 passed by the learned Single Judge in Special Criminal Application No.934 of 1998 whereby the said Special Criminal Application was dismissed.

2. The appellant was subjected to a show cause notice on 7th November 1997 under Sec.59 of the Bombay Police Act, 1951 requiring him to show cause as to why the order for his externment for a period of two years should not be passed against him. The appellant did not file any reply to this show cause notice despite five consecutive adjournments granted by the authority and also did not adduce any evidence in his support. The authority ultimately passed the order for the appellant's externment on 16th January 1998 which was to remain in force for a period of two years. The authority, i.e. Sub Divisional Magistrate, Junagadh passed the aforesaid order of externment on 16th January 1998 under Sec.56 of the Bombay Police Act, 1951 and accordingly the appellant was asked to leave Junagadh and not to enter the adjoining districts, Rajkot (Rural) etc. for a period of two years without obtaining prior permission of the competent authority. Against this order dated 16th January 1998, passed against the appellant for his externment as above, the appellant preferred an appeal under Sec.60 of the Bombay Police Act before the Dy. Secretary, Home Department. This appeal dated 17th February 1998 was not accepted and the order dated 16th January 1998 passed by the Sub Divisional Magistrate, Junagadh against the petitioner in Externment Case No.6 of 1997 and the order dated 16th January 1998 was maintained. Thus the appeal was decided on 4th May 1998 against the present appellant. Aggrieved from the externment order dated 16th January 1998 read with the appellate order dated 4th May 1998, the appellant herein preferred Special Criminal Application No.934 of 1998 and this Special Criminal Application was dismissed by the learned Single Judge on 10th November 1998.

3. It is also noted that during the pendency of the Special Criminal Application No.934 of 1998, the appellant had also moved a Criminal Misc. Application No.4195 of 1998. This Criminal Misc. Application No.4195 of 1998 was filed by the present appellant because an order was passed on 22nd August 1998 against him for violation of the conditions of the externment order and in terms of the order dated 22nd August 1998, the appellant was put in police in District Jail Bhuj

upto 21st January 2000, under Sec.62 of the Bombay Police Act. Through this Criminal Misc. Application, the appellant had prayed for setting aside the order dated 22nd August 1998. This Criminal Misc. Application No.4195 of 1998 was disposed of on 12th October 1998 and the sentence as was given by the order dated 22nd August 1998 so as to put the appellant behind the bars for the period of externment upto 21st January 2000 was suspended subject to the conditions mentioned in the order dated 12th October 1998 itself.

4. In the facts of this case, it is clear that the period of externment is already over on 21st January 2000. However, we have gone through the order dated 10th November 1998 passed by the learned Single Judge which is the subject matter of challenge in this Letters Patent Appeal. We do not find any reason to take a view different than the one which has been taken by the learned Single Judge in his elaborate judgment dealing with all the contentions raised by the appellant in the Special Criminal Application. There appears to be no infirmity or illegality in the show cause notice which was issued by the authority and it is an uncontroverted fact on record that despite grant of repeated adjournments, the appellant did not file any reply to the show cause notice and did not adduce any evidence in his support before the authority. The externment order dated 16th January 1998 itself does not suffer from any illegality and the learned Single Judge has rightly rejected the contentions which were raised by the appellant. Even the appellate authority, while dealing with the challenge to the externment order, has taken into consideration and dealt with the grounds which were taken in appeal. The order passed by the authority as also the order passed by the appellate authority are reasoned orders and it cannot be said that any of these authorities have passed the orders without application of mind. We agree in toto with the reasons given by the learned Single Judge for dismissing the Special Criminal Application. We do not find any force in this Letters Patent Appeal and no interference whatsoever is warranted. The Letters Patent Appeal is hereby dismissed.

(M.R. Calla, J.)

(R.R.Tripathi,J.)

Sreeram.